

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JUAN CARLOS AMOR GARCIA and OCEAN CREEK
INTERNATIONAL LLC,

Plaintiffs,

v.

11 Civ. 3859 (RMB)

ERNESTO COLMAN MENA, JAVIER ARTEGA,
DYLAN JEANNOTTE, PEDRO LANGA, EAST RIVER
INTERNATIONAL LLC, ANTONIO THOMAS
INTERNATIONAL CORPORATION d/b/a/ VITAL
DENT, GS ZAPA INTERNACIONAL, S.L., HUDSON
RIVER INTERNATIONAL LLC, and WALLKILL
CREEK INTERNATIONAL LLC,

Defendants.

DECLARATION OF JOHN DELLAPORTAS

I, JOHN DELLAPORTAS, pursuant to 28 U.S.C. § 1746(2), declare as follows:

1. I am a member of the law firm of Duane Morris LLP, counsel to defendants in the above-referenced action. I respectfully submit this declaration in support of defendants' motion to dismiss with prejudice Plaintiffs' Verified First Amended Complaint dated September 15, 2011.

2. Annexed hereto as Exhibit A is a true and correct copy of the Vital Dent Franchise Agreement dated April 17, 2007 by and between East River International LLC and Ocean Creek International, LLC, with Covenant from Juan Carlos Amor Garcia.


3. Annexed hereto as Exhibit B is a true and correct copy of pages 1 and 8 from the transcript of the hearing before Magistrate Judge Michael H. Dolinger, dated September 3, 2011, in which counsel for plaintiffs indicated that plaintiffs were "still in business."

4. Annexed hereto as Exhibit C is a true and correct copy of photos taken on or about October 7, 2011 by a Duane Morris employee of plaintiffs' Vital Dent operation located at 1901 N. Federal Highway, Pompano Beach, Florida 33062.

5. Annexed hereto as Exhibit D is a true and correct copy of a webpage entitled "Vital Dent Dentistry" from the Pompano Citi Centre website printed on October 19, 2011 and available at http://www.pompanociticentre.com/Stores/VitalDent_LOC.htm.

6. Annexed hereto as Exhibit E is a true and correct copy of an unpublished Order Adopting Magistrate's Report and Recommendation and Granting Cross-Motions for Summary Judgment In Part, dated March 26, 2003 (Docket # 229), and Report and Recommendation, dated February 14, 2003 (Docket #202), filed in *Mark Yaffey and Mark A. Yaffey Orthodontic Group, P.A. v. Orthalliance, Inc.*, 01-civ-03715 (S.D. Fl. 2003).

I hereby declare under penalty of perjury that the foregoing is true and correct.



JOHN DELLAPORTAS

Dated: New York, New York
October 20, 2011